

COUNTY OF YORK

MEMORANDUM

DATE: August 23, 2004 (BOS Mtg. 9/7/04)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-642-04, Carpe P.M., Inc., Allen G. Ennis and Tien Kim Le

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 18) of the York County Zoning Ordinance to authorize the establishment of a night club (dance floor) to be operated as part of a planned 1,970-square foot restaurant to be located at 264A and 264B McLaws Circle within the Festival Marketplace shopping center. The subject property is located within both York County and James City County. The portion of the property located within York County is identified as Assessor's Parcel No. 15-4-3A, and the portion located within James City County is identified as Parcel ID 5020900002B.

DESCRIPTION

- Property Owner: Alpha Omega Unlimited, LLC, Charles and Victoria Fichtner
(Applicant is property owner's lessee)
- Location: 264A and 264B McLaws Circle
- Area: Parcel acreage: 1.41 acres
- Frontage: Approximately 65 feet on Busch Way and 260 feet on McLaws Circle
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: General Business
- Zoning Classification: York County: GB – General Business
James City County: M1 – Limited Business/Industrial
- Existing Development: Shopping Center
- Surrounding Development:
East: Vacant parcels; Pocahontas Trail right-of-way beyond

South: Marriott Hotel beyond McLaws Circle (within James City County)
West: Atrium office building beyond McLaws Circle (within James City County)
North: AAA office, real estate office, gasoline station and shopping center beyond Busch Way

- Proposed Development: Restaurant with alcoholic drink service and dance floor

CONSIDERATIONS/CONCLUSIONS

1. The proposed 1,970-square foot restaurant/nightclub facility includes a 480-square foot dance floor with surrounding drink rail. In accordance with Zoning Ordinance definitions, establishment of a dance floor, alcoholic drink service, and hours of operation beyond 11:00 p.m. categorizes the proposed use as a nightclub, which requires the approval of a Special Use Permit. The facility would be used as a sit-down restaurant during the day and early evening hours, and a 480-square foot dance floor would be opened between the hours of 9:00 P.M. and 1:30 A.M. The applicant intends to begin operation of the facility as a restaurant prior to the Board of Supervisors hearing for the nightclub use.
2. The property was the subject of Application No. ZM-143-91, approved by the Board of Supervisors on October 3, 1991, which rezoned the property from CT (Tourist Commercial) to CC (Community Commercial), subject to voluntarily proffered conditions. Proffers precluded use of the property for small engine repair or outdoor storage uses, which would not affect the proposed nightclub use.
3. Land uses bordering the site include the Atrium office building and a Marriott Hotel to the south and west (in James City County), AAA and Merrill Lynch Realty office buildings to the north, and vacant parcels to the east bordering Pocahontas Trail (Route 60). Surrounding zoning is GB (General Business) within York County and M1 (Limited Business/Industrial) within James City County. The Comprehensive Plan designates this area for General Business development, and the James City County 2003 Comprehensive Plan designates the area for mixed use (commercial, office, limited industrial).
4. The restaurant/nightclub is proposed to be located in the two southernmost end units of the Festival Marketplace shopping center. The center was built in 1988, and adequate parking, lighting, and utility facilities exist to service the proposed use. Zoning Ordinance parking standards for shopping centers of this size require a minimum of 65 spaces for the shopping center (one space per 250 square feet of floor area), and 83 spaces are provided. If parking for the subject use were evaluated as a stand-alone facility, the maximum parking requirement would be one space per 60 square feet of floor area (excluding kitchen facilities), or 27 spaces. Peak occupancy of the facility is anticipated between the hours of 9:00 P.M. and 1:30 A.M., when the dance floor would be in use. Given that the majority of uses in the center are not open at night, and the site has more parking spaces than the Zoning Ordinance requires, I am of the opinion that the proposed

use would be in conformance with Zoning Ordinance parking standards. A proposed approval condition addresses this issue.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its August 11, 2004 meeting and, subsequent to conducting a public hearing at which only the applicant spoke, voted 5:1 (Mr. Simasek absent) to recommend approval.

COUNTY ADMINISTRATOR RECOMMENDATION

Uses immediately adjacent to the subject parcel are non-residential (shopping center, offices, and a hotel), and I would not anticipate any adverse impacts on those uses. Existing parking, lighting, and utilities are adequate to accommodate the proposed use. While parking for the proposed facility calculated as a stand-alone use exceeds base requirements for a shopping center (one space per 60 square feet of floor area vs. one space per 250 square feet of floor area), peak hours of operation (late evening) would not conflict with existing uses commonly found in shopping centers. Additionally, recommended approval conditions address control of off-site noise and loitering. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve this application subject to the conditions contained in proposed Resolution R04-134.

Carter/3337:AMP
Attachments

- Excerpt from Planning Commission minutes, August 11, 2004
- Zoning Map
- Shopping Center Site Plan
- Applicant's Floor Plan Sketch
- Applicant's Justification Statement
- Proposed Resolution R04-134